



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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**Date:** February 10, 2023

**To:** Rayne Pearson, Administrative Law Judge, Administrative Law Division

**From:** Jason Sharp, Motor Carrier Safety Supervisor, Transportation Safety Division

**Re:** **TV-220959 Visionary Movers LLC**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG067560)

On December 15, 2022, Commission staff (staff) completed a routine safety investigation of Visionary Movers LLC (Visionary Movers or Company) which resulted in a proposed conditional safety rating.

Provisional household goods companies must achieve a satisfactory safety rating prior to receiving permanent status. As the Company has yet to achieve a satisfactory safety rating, the Commission afforded Visionary Movers the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan (SMP), showing that the company took corrective action to address the identified violations.

Commission rules prohibit motor carriers from operating beginning on the 61st day after the date of the notice of a proposed unsatisfactory rating. A company may request a change in its safety rating based on evidence that it has taken corrective actions to address the identified violations, and that its operations currently meet the safety standard and factors in 49 CFR § 385.5 and 385.7. In this case, Visionary Movers has until February 13, 2023, to come into compliance with applicable laws and rules by obtaining Commission approval of a SMP.

**The conditional safety rating was based on three violations of acute and critical regulations – 49 C.F.R. § 395.8(a)(1), WAC 480-15-550, and WAC 480-15-555.**

“**Acute**” violations are those identified as such where non-compliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier.

“**Critical**” regulations are those identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a company's management controls. Patterns of non-compliance with a critical regulation are linked to inadequate safety management controls and higher than average accident rates.

**Acute and Critical violations discovered during investigation:**

1. Nineteen violations of WAC 480-15-550 – Operating a commercial motor vehicle without having adequate cargo insurance coverage. (Acute)
2. Thirteen violations of WAC 480-15-555 – Failing to conduct/retain paperwork containing criminal background checks or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington. (Critical)
3. Thirty violations of Title 49 CFR § 395.8(a)(1) – Failing to require driver to prepare a record of duty status. (Critical)

On January 4, 2023, the Commission issued a penalty assessment against Visionary Movers in the amount of \$5,700 because of violations discovered during the safety investigation. The penalty includes:

1. A \$1,900 penalty for 19 violations of WAC 480-15-550 for operating a CMV without having adequate cargo insurance coverage.
2. A \$400 penalty for four violations of WAC 480-15-555 for failing to conduct or retain paperwork containing criminal background checks or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington.
3. A \$3,200 penalty for 32 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
4. A \$100 penalty for one violation of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification file on each driver employed.
5. A \$100 penalty for 30 violations of 49 C.F.R. § 395.8(a)(1) for failing to require driver to make a record of duty status.

In a January 11, 2023, Notice of Intent to Cancel, the Commission instructed Visionary Movers to submit its proposed safety management plan no later than January 18, 2023.

On January 27, 2023, Visionary Movers submitted a SMP prior to the brief adjudicative proceeding. That same day, Staff notified the Company that the SMP was not accepted and provided a detailed response addressing where the SMP was deficient.

On February 1, 2023, the Commission held the brief adjudicative proceeding. Staff testified that the Company had not submitted an acceptable SMP. Staff further testified that it would continue to work with Visionary Movers leading up to its cancellation date on February 14, 2023. The Company was instructed to submit its final proposed SMP by 5:00 pm on February 9, 2023.

On February 9, 2023, Visionary Movers submitted an updated SMP addressing each violation noted during the safety investigation.

Staff only recommends approving a SMP that addresses the following seven items:

1. The plan must address each acute, critical, or serious violation discovered during the most recent investigation. It must also include corrective actions that address other violations noted during the investigation.
2. Identify why the violations were permitted to occur.

3. Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action.
4. Outline actions taken to ensure that similar violations do not reoccur in the future. The plan must demonstrate that the company's operations currently meet the safety standard and factors specified in 49 CFR § 385.5 and 385.7. To do so, the plan must demonstrate the company now has adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.
5. If the request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., companies must include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.
6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that the company believes supports its request.
7. Include a written statement certifying the company will operate within federal and state regulations and the company's operation currently meets the safety standard and factors specific in 49 CFR § 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

### **Summary and Recommendations**

Staff reviewed Visionary Movers' SMP and concludes it is not sufficient to justify an upgrade to the company's safety rating, and it fails to demonstrate that adequate corrective actions have been taken to address the violations cited during the safety investigation. As required by 49 C.F.R. § 385.17(c), a motor carrier must base its request for upgrade upon evidence that it has taken corrective actions and that its operations currently meet the safety standard and factors specified in 49 C.F.R. § 385.5 and 385.7. The request must include a written description of corrective actions taken, and other documentation the company wishes to be considered.

Visionary Movers' SMP fails to demonstrate that the Company understands all of the safety regulations that it was found to be in violation of, or how to ensure future compliance. Visionary Movers addressed each violation discovered and vaguely explains why the violations occurred. The plan fails to demonstrate that each violation has been corrected or that the Company has sufficient safety management controls in place to ensure these violations do not reoccur in the future. Documentation that was submitted in support of the SMP contained violations and represent future violations are likely to occur. Visionary Movers' SMP demonstrates that the Company lacks appropriate safety management controls to justify an upgrade to its safety rating.

Staff recommends that the Company's proposed conditional safety rating remain, and the provisional permit be cancelled.

As of the time of this evaluation, Visionary Movers has not filed a response to the penalty assessment. As a result, Staff recommends that the assessed penalty remain as issued.

Partial documentation of a driver qualification file, vehicle maintenance, hours of service records, and a criminal background check were included as attachments to the plan.